



**Office of the Ombudsman
Bureau du Médiateur
Ofis blong Ombudsman**



**REPORT ON ANNUAL RETURNS OF
LEADERS 2020 and 2021**

**This document present all task, activities
and challenges related to Annual Returns of
Leaders for 2020 and 2021**

Every leader must complete an annual return for the preceding year setting out details of the leader's assets and liabilities in accordance with the form in the Schedule. The annual return must be given to the Ombudsman (a) within 2 months of becoming a leader; and (b) by 1 March in each year.

Date: 9th August 2022

TABLE OF CONTENTS

1. INTRODUCTION	3
2. ISSUES AND CHALLENGES	3 - 8
3. ISSUES IN RELATION TO THE 2021 ANNUAL RETURNS SUBMISSION BY LEADERS	8 - 9
4. RATE OF COMPLIANCE BY PREVIOUS LEADERS	9 - 14
5. LEGAL PROCEEDINGS	15
6. RECOMMENDATIONS	8 - 9

1.0 INTRODUCTION

The Office of the Ombudsman is pleased to release the first ever report produced by this Constitutional Office regarding the Annual Returns of Leaders. The report highlights issues and challenges experienced by the Office of the Ombudsman in carrying out, for the first time, duties relating to the administration and enforcement of annual returns of Leaders for the year 2020 and 2021. The report also contains some statistics of rates of compliance by leaders to the requirement of annual returns in previous years.

The Ombudsman has currently the legislative mandate to receive, keep records and assess the annual returns of those defined by the Article 67 of the Constitution, Section 5 of the Leadership Code Act and other laws of the Republic of Vanuatu as leaders.

Since the Leadership Code Act [CAP.240] was enacted by Parliament in 1998 requiring leaders to file annual returns declaring certain properties, including loans and other liabilities they have or owe, to the prescribed authority. That prescribed authority was the Clerk of the National Parliament. He administered and enforced the provisions of the annual returns under the Leadership Code Act (Act).

In June 2020, the Parliament of Vanuatu passed the Leadership Code (Amendment) Act No. 1 of 2020. That Amendment transferred to the Ombudsman of Vanuatu the sole duty to ensure that all Leaders file their annual returns in accordance with the requirements of the Act. The Clerk of the National Parliament ceased to perform that function as from the 10th of July 2020.

This is the first time in the history of this Constitutional Office to assume this huge responsibility.

During the enforcement process, the Office of the Ombudsman identified some issues that needs urgent attention. Some will require amendments to be made to the current provisions of the Act to enhance the administration and enforcement of annual returns of leaders.

2.0 ISSUES AND CHALLENGES

2.1 No assistance to perform new function

The transfer of the powers and functions relating to the administration and enforcement of annual returns of leaders to the Ombudsman was done hastily. No proper plans was put in place to assist the Ombudsman to perform this new function. This include no assistance in monetary terms. The Ombudsman assigned to one of his investigators the responsibility to be in charge of annual returns. This decreased the number of investigators to investigate complaints. The new initiatives taken included –

- (a) an intensive awareness exercise to all leaders on their obligation to file annual returns and to do so within the time set by the Act; and
- (b) search and determine the leaders prescribed in the Constitution, the Leadership Code Act, and other Acts of Parliament; and
- (c) provide assistance to leaders to fill in their annual returns; and

- (d) advise leaders on the dateline that they must meet to file their annual returns on time; and
- (e) continuously seek advice and assistance from senior members of the Ombudsman's Office including the Ombudsman, and the Office of the Attorney General, employers of leaders and others to identify the leaders; and
- (f) service of notices on all leaders who failed to file their annual returns under section 33 (a) of the Act. This was a difficult exercise as there is no existing central registry to obtain addresses, including phone numbers of leaders to enhance the service of notices; and
- (g) on receipt of annual returns of leaders, assist the Ombudsman determine the veracity of information submitted by each leader; and
- (h) identify leaders who failed to file their annual returns on time; and
- (i) identify leaders who falsified information about their properties, liabilities and new transactions undertaken; and
- (j) collect evidences of breaches of the annual returns with assistance of the legal team in preparation for the prosecution of such leaders; and
- (k) appear in court to testify on behalf of the Ombudsman.

2.2 Number of leaders in Office Registry

These are some of the statistics not necessarily based on the Official Gazette publication dated 17th March 2021 on the number of leaders in this country:

1. The total number of leaders recorded in the Office registry is 723.
2. 584 Leaders filed their annual returns for 2020.
3. 79 Leaders failed to file their annual returns for 2020 (76 actual persons).
4. 663 is the total number of positions of Leaders that includes those who filed and those who failed to file their annual returns for 2020.
5. It must be noted that there are more positions of leaders than the actual number of persons appointed to the positions. This has come about mainly because of the fact that one leader is appointed to more than one leadership position. Two good examples are those of Directors of Government Departments and Director Generals of Ministries.

2.3 Annual Returns Form

i) Issue with the current form

In carrying out the task of informing and receiving annual returns of leaders, we came across many challenges in relation to the content of the annual returns form and the information required by leaders. One of the issues is the lack of clarity and details of the information required by leaders to provide in the form. For example, words as "assets, liabilities, real and personal property, mortgages, transactions".

These are new terms for many leaders. The form needs to be designed to be more user friendly.

Many leaders questioned and even complained by phone, email and also dropped by the Office for help on those issues. We did our best to assist them in completing their annual return forms.

For provincial councillors and members of the Malvatumauri Council of Chiefs for instance, we prepared a sample of annual return form including explanatory notes to assist them in completing their annual return forms.

Another issue is the technical language used in the form. Some leaders had difficulties understanding the form or the extent of different properties (in relation to value thresholds) they are required to report on. Some leaders who live and work in the rural areas like the provincial councillors were assisted by their respective financial or administration officers.

ii) Filing of annual return within 2 months of becoming a Leader

Section 31 (2) (a) requires a leader to file his or her "annual return...to the Ombudsman within two months of becoming a leader". The following scenarios can happen in that period –

- (a) a leader acquires no new assets, no new liabilities and do not enter into any new transactions; or
- (b) a leader acquires a new asset, etc.

First, what does the leader in scenario (a) report on?

Second, the leader in scenario (b) will report on the new asset acquired in those two months. However, if that is the intention that leader will end up reporting that asset acquired then again when the leader submits his or her annual returns by 1 March the following year. Is this the desired intention?

Third, there is no statement on the value threshold of a property acquired to attract the requirement to file information on that property under section 31 as a whole.

The intention behind section 31 (a) is not clear. Some leaders have questioned the intention or purpose of section 31 (a).

Finally, the requirement to file annual returns within two months of being appointed as a leader is contrary to the rule in Part 4 of the Act. That rule requires leaders to file their annual returns by March of the new year for the previous year. In other words, they report on assets acquired (if any), and liabilities incurred (if any), for the previous year. Not for the year yet to be completed.

iii) Filing of annual returns close to or on 1st of March

Below are some challenges experienced with managing or enforcing annual returns at the last minute:

- (a) It was very challenging to deal with so many forms filed at the last minute;

- (b) Answering queries and assisting leaders in the last days in person, by phone calls, through emails, and through third parties was one of the most tasking of all;
- (c) The many concerns raised by leaders is due to the fact that they did not understand the requirements prescribed in the annual return form. I do not blame them for this at all as it is in technical language, both legal and financial languages. Further, it is in English and in French. There is no Bislama version;
- (d) Section 33 (a) of the Act empowers the Ombudsman to service notice on a leader who had failed to file his or her annual return by 1st March and to do so within a further 14 days. The delivery of such notices to leaders was a nightmare. This is due to –
 - i. The requirement of the Act to serve the leader concerned in writing;
 - ii. More than 200 leaders had failed to file their annual returns by 1st March;
 - iii. The Office of the Ombudsman had no idea where to locate them. No proper register of leaders exist with information on each leader, including their addresses.

Everyone in the Office of the Ombudsman became involved in the search to locate the leaders concerned and served them, where possible.

2.4 Registry of all positions of Leaders

Further challenges arose in relation to determining who is a leader. Section 5 of the Leadership Code Act –

- (a) identifies holders of certain positions to be leaders; and
- (b) identifies “members and the chief executive officers (however described) of the boards and statutory authorities” to be leaders; and
- (c) identified political advisors to a Minister to be leaders.

First, just getting the names and addresses of all the leaders identified in the Constitution and the Leadership Code Act was not easy at all. Some researches were carried out, and consultations with different Government institutions done as well to obtain names and addresses.

Second, verification of names was also not easy to complete. Leaders lived near and far throughout Vanuatu. Instruments of appointment or oaths taken by a leader were not easily accessible.

Third, grey areas in the law-

- (a) secretaries to boards - also submitted annual returns;
- (b) proper intent of section 5 (f) of the Act. It states “members and the chief executive officers (however described) of the boards and statutory authorities”. The Ombudsman received annual returns from secretaries of boards and all officers from two Government Ministries.

First, it appears that there is some confusion as to what is meant by “chief executive officers”. Does it include secretaries of boards and statutory authorities?

Second, it is an indication that –

- (a) not enough awareness has been made to leaders and also the need to clearly determine who are office holders who fall in to the category “chief executive officers” as referred to in section 5 (f) of the Act; and
- (b) persons who are appointed into leadership positions have not taken the time to familiarize themselves with applicable laws.

Third and interestingly, persons who are not leaders also filed annual returns.

2.5 Who are leaders – Grey area?

Many people including leaders have questioned about the legal definition of Leader and there was huge amount of time spent to explain to them by email, phone and even meeting with them.

The legal requirement to file annual returns was questioned by many leaders particularly those who did not received any allowances (or sitting allowance) to attend board or council meetings. The Ombudsman had several meetings with members of the Health Practitioners Board who questioned the legal requirement to file annual returns.

The Ombudsman also received correspondence from the NBV Board of Directors' legal counsel who questioned the legal requirement for its board members to file annual returns and questioned the definition of “government statutory body”.

The Ombudsman also received a number of phone calls and emails from the VCCI's Board members who were not happy about the final warning they received and requirement to file their annual returns.

Many leaders have stated on different occasions that it was the first time they filed their annual returns and the first time to hear about annual returns.

2.6 Awareness to Leaders and public about annual returns

In 2019, the Ombudsman took part in the PSC induction programs for newly appointed Directors and DGs where the Ombudsman presented and explained, amongst other things, the requirement of filing the annual returns.

In 2020, the Ombudsman took part in the newly elected MPs' induction program in Parliament. The requirement to file annual returns by leaders in time was mentioned to the newly elected members of Parliament.

After the amendment of Leadership Code Act was passed by Parliament in June 2020, the Ombudsman had been since organizing awareness about annual returns on TV, radio, talk back show and different media outlets. Even with that, some leaders and the public are still not aware and not really understand the legal requirement to file annual returns.

2.7 Date of Appointments

During the collection of names of different leaders to prepare the Office registry of leaders –

- (a) some government agencies provided the names including date of appointment while some did not do so. This made matters more difficult for the Office since we were not sure or not in a position to say that, a leader must file his or her annual returns;
- (b) some leaders were confused and contacted the Office to query whether or not they should file their annual returns particularly those recently appointed.

2.8 Acting Positions

The acting position was a subject of some discussions with the Ombudsman. There is no clear guideline in the law. As such, we have agreed that any person who is not a Leader and is appointed to an acting position of a leader is not required to file his/her annual returns. However, those who are appointed for a certain period, for example, one year and over and it is not clear when the leadership position is to be filled, the person is taken to be a leader and must file his or her annual returns.

2.9 Membership to other Statutory Body

We are noticing that some leaders are members of a number of statutory bodies. This could easily affect their performance in their original position, which they were officially appointed to. The membership of certain leaders to these statutory bodies are provided under laws.

3.0 ISSUES IN RELATIONS TO THE 2021 ANNUAL RETURN SUBMISSION BY LEADERS

The following are issues the Office of the Ombudsman has noticed and take note during the submission of the 2021 annual returns by leaders:

- a) A number of Leaders have authorised other people to complete and signed their annual returns form on their behalf, especially for those who live in remote areas or in the islands such as members of the Malvatumauri Council of Chiefs and members of provincial government councils (Councillors). The Leadership Code Act does not provide any provisions that authorise a person to fill out and sign the form of a leader.
- b) In some instance, there were leaders (or non-leaders) who completed the forms of others leaders and then make them sign the form before filing to the Office of the Ombudsman.
- c) Since last year, the Office of the Ombudsman has noticed that some leaders are members of a number of statutory bodies. The Ombudsman is of the view that membership to other statutory bodies could result in the lack of performance in their positions, which they were official appointed to.

- d) There were leaders who filed their annual returns form without properly indicate the position and the office they were employed to, particularly Political Advisors.
- e) Most Leaders still do not understand the importance of filing an annual return and the consequences of failing to file it.
- f) Still many leaders do not know how to complete the annual returns and even do not know the due date. They have no idea about the 14 days extension period even though the Office of the Ombudsman did many awareness to leaders and the public.
- g) Many Leaders do not know how to fill the annual returns form.
- h) The Office of the Ombudsman has noticed that some leaders thought that the submission of annual return is a one-time thing. They called and even emailed us saying that they already filed their annual returns last year (referring to the 2020 annual returns).

4.0 RATE OF COMPLIANCE BY PREVIOUS LEADERS

This is a brief report of the statistics of previous years of Leaders' annual returns extracted from past Ombudsman's reports and Government Official Gazette. Unfortunately, the Office was unable to obtain all the records of previous leaders' annual returns. As a result, the Office is unable -

- (a) to provide proper statistics; and
- (b) to show on a graph the rate of compliance by leaders to the provisions of annual returns in previous years.

2000 Report

The following is extracted from the 2000's Ombudsman public report on annual report for leaders for 1999. It was the first report of Ombudsman on annual returns of leaders.

The Ombudsman found that out of the 86 leaders whose names were published in the Gazette as having failed to file annual returns:

- 43 leaders had submitted their annual returns to the Clerk out of time;
- 9 leaders had decided to resign from their positions because they refused to disclose their assets and liabilities;
- 24 leaders failed to submit any annual returns to the Clerk;
- 8 leaders were removed, terminated or resigned from their positions when their annual returns were due by 1 March 1999; and
- 2 leaders' names were mistakenly listed as having failed to file their annual returns.

2001 Report

The following is extracted from the Ombudsman public report on annual returns for leaders of 2000. The findings were as follows:

- (a) 61 leaders failed to file their annual returns with the Clerk of Parliament by 1 March or within 2 months of becoming a leader as required by the Leadership Code Act;
- (b) 7 leaders listed in the Official Gazette were no longer leaders at the time required for filing of annual returns;
- (c) some leaders were not aware of their obligations to file annual returns. This is in spite of the fact that the Leadership Code Act was enacted in 1998;
- (d) some leaders were not aware that the Clerk of Parliament has no legal obligation to send them the forms. It is the duty of the leaders to get the forms and submit their annual returns to the Clerk. The Clerk has an obligation under the law to ensure that the leader's returns are published in the Official Gazette together with a list of the leaders who failed to file returns;
- (e) The Clerk is not kept informed by the Government of new appointments of leaders and cessation of office by leaders; and
- (f) 53 of 61 leaders published in the Gazette had failed to file their annual returns and were in breach of the Leadership Code.

The Ombudsman made the following recommendations:

- (a) Persons who are appointed to leadership positions must be informed of their duties and statutory obligations; and
- (b) The Police Commissioner to consider the report and open an enquiry into the matter. That the decision by the Commissioner whether to enquire or not be done within 3 months; and
- (c) That section 34 of the Act is amended to enhance procedural proficiency as well as provisions that will promote verification of annual returns.

2002 Report

The following information is extracted from the Government Official Gazette No. 4 dated 17th of May 2002. 302 leaders filed and 24 failed to file, their annual returns for 2001 to the Clerk of Parliament. A Total of 326 leaders recorded.

The following is extracted from 2002 Ombudsman public report on annual returns of leaders:

"The Ombudsman is issuing this Public Report to illustrate how some leaders in the Vanuatu Government, may fail to observe and follow the law. This report is made about the Clerk of Parliament, Mr Lino Saksak who failed to comply with the provisions of the Leadership Code Act to gazette and publish the names of leaders who have submitted their Annual Returns and those who failed to submit their Annual Returns."

2003 Report

No 2002 data available.

2004 Report

The following information is extracted from the Government Official Gazette No. 17 dated 21st of June 2004. 239 leaders filed and 153 failed to their annual returns for 2003 to the Clerk of Parliament. A Total of 392 Leaders responded.

2005 Report

This information is extracted from the 2005 Ombudsman public report on annual returns of leaders:

"On 11 July 2005, Extraordinary Gazette No. 3 was published in which the names of 166 leaders were listed as those who had failed to declare their 2004 Annual Returns.

After due enquiry, the Ombudsman found that:

- Only 150 leaders failed to declare their 2004 Annual Returns.
- 32 of the 150 leaders took the liberty to declare their 2004 Annual Returns following the enquiry that was made by the Ombudsman, yet included in this report as their declaration was made after the date required by the LCA.
- The leaders who failed to submit their 2004 Annual Returns have breached the LCA.

The Ombudsman made the following recommendations:

- I. Part 4 of the LCA be amended that the provisions of the Annual Returns is administered by the Office of the Ombudsman. This would be more convenient since there is a leadership code section that handles leadership complaints.
- II. The Government authorities legally empowered to appoint and terminate persons from leadership positions must include, as part of their administrative role, the duty to inform the Clerk of Parliament in writing immediately after every appointment or termination of any leader so that the Clerk of Parliament can keep an update of who the leaders are.
- III. Parliament must keep a good and an up-to-date record of the Annual Return documents.
- IV. The LCA be amended to provide for Secretary Generals of the Provincial Councils, Town Clerks of Municipalities, Chairman of Government Statutory Bodies to be responsible for the distribution of Annual Return forms to leaders under their authority. This is to avoid late submission of Annual Returns each year which is in breach of the LCA.
- V. The Government set up a committee to formulate an induction program for persons appointed to leadership positions to assist them in understanding their responsibilities under the Constitution and the LCA. Ignorance of the law is no excuse. Leaders need to know that it is their duty to obtain, complete and submit their Annual Returns forms to the Clerk of Parliament within 2 months of becoming a leader or by 1 March each year.
- VI. The Annual Return forms be simplified and translated into Bislama so that it is more understandable by those who do not speak and understand either English or French.

- VII. Section 31 to 33 of the LCA is amended to give the Ombudsman the authority to scrutinize all annual returns that are submitted each year. This is to avoid false declaration of information of what a leader owns."

2006 Report

The following is extracted from the Government Official Gazette No. 30 dated 6th of November 2006. 220 Leaders filed their annual returns and 162 failed to file their 2005 annual returns to the Clerk of Parliament. A Total of 382 Leaders.

The Ombudsman has also published a public report on leaders who failed to file an annual return for year 2005.

"Ombudsman findings:

- Breach of section 33 of the Leadership Code Act by 156 Leaders in not filing annual returns for 2005.
- Breach of section 33 of the Leadership Code Act by the Clerk of Parliament.
- Breach of section 32(3) of the Leadership Code Act by the Clerk of Parliament.
- Breach of section 13 of the Leadership Code Act by the Clerk of Parliament.

Ombudsman Recommendations:

- Prosecution of Leaders who failed to submit annual returns for 2005.
- Amend section 32 and 33 of the Leadership Code Act to have the Ombudsman keep a register of Leaders who have and failed to file annual returns instead of the responsibility falling on the shoulders of the Clerk of Parliament.
- Prosecution of the Clerk of Parliament under Part 6 of the Leadership Code Act."

2007 Report

The following is extracted from the Government Official Gazette No.21 dated 9th July 2007. 221 Leaders filed their annual returns for the year 2006 to the Clerk of Parliament. 185 leaders failed to file their annual returns. A total of 406 leaders.

The Ombudsman has also published a public report on breach of Leadership Code Act by leaders who failed to file an annual return for 2006. Below are the findings of the Ombudsman 2007 public report:

- "221 Leaders filed their annual returns and 185 failed to file their annual returns to the Clerk of Parliament. A total of 406 Leaders.
- out of 185 leaders as published in the Official Gazette No.21 of 9 July 2007, 177 leaders have breached s.33 of the LCA in not filing 2006 annual returns;
- The Clerk of Parliament has breached s.32 [3], s.33 and s.13[c] of the LCA.

The Ombudsman recommends:

- i. prosecution of leaders who failed to file 2006 annual returns;
- ii. prosecution of the Clerk of Parliament under Part 6 of the LCA; and

- iii. amendment to s.32 and s33 of the LCA.”

2008 Report

On the 16th of June 2008, the State Law Office published in the Official Gazette, No.21 list of 199 leaders who filed and 191 leaders who failed to file an annual return for year 2007 to the Clerk of Parliament. A total of 390 leaders.

The following is extracted from the 2008 Ombudsman public report:

“On 28 March 2008 an Ombudsman Officer requested the Gazetting Officer from the State Law Office to confirm whether or not her Office had already received the lists of those leaders who have not only file but also those who failed to fill and submit their 2007 Annual Returns. She confirmed to the Officer that the State Law Office had not yet received those lists to be officially published in the Official Gazette. From then onwards, the Ombudsman's Officer has been following up through phone calls on the matter with both the State Law Office and Parliament House up until the lists of those leaders were published in the Official Gazette No.33 dated 16 June 2008. One hundred ninety nine (199) leaders were listed as having filed their 2007 Annual Returns and one hundred ninety one (191) leaders were listed as those who failed to submit their 2007 Annual Returns. Upon carrying an investigation into the matter, the Ombudsman has instructed each leader to explain the reason for which he/she has miserably failed to provide the Clerk of Parliament with an annual return form for 2007 by way of three means: a letter and statement questionnaire and Police Witness statement.

Below are some of the Ombudsman's findings and recommendations after due enquiry into the failure of 191 leaders to file an annual return in 2007:

- 199 Leaders filed their annual returns and 191 failed to file their annual returns for the year 2007 to the Clerk of Parliament. A Total 390 Leaders.
- Out of 191 names being published only 35 of them managed to provide their responses - that which out of that number there were three (3) persons who did not fall under section 5 of the Leadership Code Act. Thus, only 32 leaders provided an explanation or an excuse as to why he/she did not comply with section 31 of the Leadership Code Act. As such, it can be deduced that only 188 leaders have or may have breached section 33 of the Leadership Code Act.
- The Clerk of Parliament Mr Lino Bulekuli dit Sacsac [Mr Sacsac] has or may have breached section 32(3) of the Leadership Code Act. In relation to the above findings, the Ombudsman recommends, amongst other things, that:
 - The 188 leaders who failed to submit their 2007 annual return be prosecuted forthwith;
 - The Clerk of Parliament Mr Sacsac be prosecuted under Part 6 of the Leadership Code Act ; and
 - Sections 32 and 33 of the Leadership Code Act be amended accordingly.”

2009 Report

This information is extracted from the Government Official Gazette No.18 dated 11th of May 2009. 208 Leaders filed their annual returns and 195 failed to file their annual returns for the year 2008 to the Clerk of Parliament. A total of 403 Leaders.

2010 Report

The 2010 report is extracted from the 2010 Government official gazette No.32 dated 8th November 2010. 197 Leaders filed their annual returns and 149 failed to file annual returns for the year 2009 to the Clerk of Parliament. A total of 346 Leaders.

2011 Report

No 2010 data available.

2012 Report

No 2011 data available.

2013 Report

No 2012 data available.

2014 Report

No 2013 data available.

2015 Report

No 2014 data available.

2016 Report

No 2015 data available.

2017 Report

No 2016 data available.

2018 Report

No 2017 data available.

2019 Report

The following information is extracted from the government official gazette and office of the Clerk of Parliament:

- 112 Leaders filed their annual returns and 299 Leaders failed to file their annual returns for the year 2018 to the Clerk of Parliament. A total of 411 Leaders.

Clerk of Parliament sent a letter dated 9th April 2019 to State Law Office advising for publication of both lists.

- 171 Leaders filed their annual returns and 257 Leaders failed to file their annual returns for the same year 2018 to the Clerk of Parliament. A total of 428 Leaders recorded. Clerk sent another letter dated 13th November 2019 advising the State Law Office to publish another lists.

There was no any clear explanation why a second letter advising the SLO to publish another lists. We do not know whether these lists were published in the official gazette or not. The second letter of the Clerk contain an additional 17 leaders compare to the total 411 leaders in the first publication.

2020 Report

No 2019 data available.

5.0 LEGAL PROCEEDINGS

The Ombudsman has started legal proceedings against leaders who failed or filed after 15th of March their annual returns. The Ombudsman has also prepared legal proceedings against those who filed false statements in their annual returns forms. The Ombudsman will not provide any details about these cases since they are ongoing legal proceedings.

6.0 RECOMMENDATIONS

After carrying out this important task required under the law, these are some of the recommendations that need to be implemented in order to facilitate and assist in carrying out effectively future task in relation to annual returns of leaders. Note that some of these recommendations are already mentioned above:

- 6.1** More Awareness is needed particularly in the provinces for those who live and work in the islands such as provincial councillors and members of the Malvatumauri council of Chiefs;
- 6.2** Language used in the form must be clear for all leaders. The three linguistic versions of the form must be clear and understandable for every leaders especially the Bislama version;
- 6.3** Recruit officers to properly impliment all the duties and responsibilities of annual returns of leaders as provided under Part 4 of Leadership Code Act [CAP.240];
- 6.4** There is a need to amend the legal provisions of the Leadership Code Act sections 31, 32 and 33 including the annual returns form as provided in the Schedule. One of the main reasons for amendments to the current law is to modernize it to better achieve the goals set out in the Constitution;

- 6.5 A clear definition of annual returns in the Leadership Code Act is a necessity. Alternatively, the current form is reviewed and plain language is used, including examples of properties, liabilities and transactions that must be reported in annual returns. Further, a clear statement in the interpretation provision as to which offices are caught by the Act. For example the position of “secretary” inside a board of directors or council;
- 6.6 Extension of the grace period of 14 days to 1 month excluding weekends –
- (a) to allow leaders who have not yet file their annual returns to do so; and
 - (c) allow the Ombudsman to prepare and send the final warning notices to all leaders who have failed to file by 1 March;
- 6.7 As alluded to earlier in this report further discussions is needed in regards to section 31 (2) (a) of LCA requiring leaders to file within 2 months of becoming a leader;
- 6.8 The language used by leaders in the form is revisited as raised in this report;
- 6.9 Requirement of all leaders newly appointed to submit their appointment details including their address, phone numbers and email addresses to the Ombudsman. And the employment authority in each case advise the Ombudsman within a month of the cessation of employment of a leader;
- 6.10 Need to establish a good database in the Office of the Ombudsman to keep confidential records of all leaders;
- 6.11 There is a need to employ a lawyer to be responsible only for annual returns to enhance efficiency and proper management of annual returns regime including, preparing legal proceedings against non-filers and false filers. This will allow the Ombudsman legal team to concentrate on other important Leadership Code issues under the Constitution, the Leadership Code Act, Ombudsman Act, and other Acts of Parliament;
- 6.12 In relation to the issue of leaders’ membership to a number of statutory bodies, the Office of the Ombudsman recommend that limitation be imposed on leaders to be appointed to many statutory bodies. Representative of the leader to statutory bodies’ membership is the best option to address this issue. There is need to review and amend provisions that allow leaders to hold many positions;
- 6.13 The Ombudsman’s Office need a proper and professional way to register all incoming forms. This way it will assist the Ombudsman in preparing legal proceedings against those who breach section 33. Also, there is a need to now designate only one person who will be delivering final warning letters as it will assist the Ombudsman in the preparation of sworn statements.


Mr. Hamlison Bulu

OMBUDSMAN OF THE REPUBLIC OF VANUATU

